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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,092	12/05/2003	Frank Wimbert	Q-78768	7309
23373	7590	11/09/2004	EXAMINER	
SUGHRUE MION, PLLC 2100 PENNSYLVANIA AVENUE, N.W. SUITE 800 WASHINGTON, DC 20037				HAN, JASON
		ART UNIT		PAPER NUMBER
		2875		

DATE MAILED: 11/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/728,092	WIMBERT ET AL.	
	<b>Examiner</b> Jason M Han	<b>Art Unit</b> 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

1)  Responsive to communication(s) filed on 05 December 2003.

2a)  This action is **FINAL**.                            2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

4)  Claim(s) 1-7 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-7 is/are rejected.

7)  Claim(s) 1 is/are objected to.

8)  Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on \_\_\_\_\_ is/are: a)  accepted or b)  objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)  The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a)  All    b)  Some \* c)  None of:  
1.  Certified copies of the priority documents have been received.  
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

1)  Notice of References Cited (PTO-892)  
2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3)  Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.  
4)  Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.  
5)  Notice of Informal Patent Application (PTO-152)  
6)  Other: \_\_\_\_\_.  
\_\_\_\_\_

## **DETAILED ACTION**

### ***Priority***

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

2. The disclosure is objected to because of the following informalities:
  - a. Page 2, Line 22: misspelling – “fulfil”;
  - b. Page 3, Line 24: grammatical error – “firstly” should be “first”;
  - c. Page 4, Line 16: (71') should read as (17').

Appropriate correction is required.

### ***Claim Objections***

3. Claim 1 is objected to because of the following informalities: Grammatical error – In the third limitation of the claim, please insert “disposed” between “housing” and “laterally”. Appropriate correction is required.

### ***Double Patenting***

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1-3 and 6 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 4, 13, and 16 of U.S. Patent No. 6637917 to Schwanz et al. in view of Chen (U.S. Patent 5119174).

Schwanz discloses a similar but not identical earlier patent wherein the invention mainly differs with respect to the reflector arrangement comprising of a good heat-conductive material. Such a configuration would be an obvious modification and is commonly known within the art.

To further expound on the similarities, Schwanz discloses a side flashing lamp including:

With regards to Claim 1

- a housing with a light exit opening [Claim 1];
- an elongate light cover [Claim 1] closing the light exit opening;
- at least one light emitting diode [Claim 4] in the housing laterally of the light cover, the light emitting diode having a main emission direction substantially parallel to the longitudinal direction of the light cover;
- a light guide device [Claim 1] positioned for light emitted by the at least one light emitting diode in the main emission direction to be coupled into the light device and at least partially coupled out transversely with respect to said main emission direction towards the light cover; and

- a reflector arrangement [Claim 13] which extends at least on the side of the side of the light guide device in opposite relationship to the light cover and reflects towards the light cover light which is coupled out therefrom in other directions than towards the light cover;

With regards to Claim 2

- Schwanz teaches a light emitting diode in Claim 4 as cited above. In addition, Schwanz specifically teaches, "All light emitting diodes can be mounted on a flexible printed circuit board or on a stamped grid, which at the same time provides for the power supply thereto [Column 4, Lines 25-27]." It is obvious that the current application is a combination of the two teachings, and is commonly held in the art.

With regards to Claim 3

- Schwanz discloses the reflector arrangement including a plate with high mirror finish vapor deposited thereon [Claim 13];

With regards to Claim 5

- Schwanz discloses the reflector arrangement in Claim 1 as cited above. In addition, Schwanz teaches the reflector being formed by at least one housing wall having an inside surface with a reflective layer thereon [note Figures 2-3, 5: (20) acts as the interior surface wall of the housing].

With regards to Claim 6

- Schwanz discloses a side flashing lamp for a vehicle [Claims 1, 16].

Schwanz does not specifically teach the reflector arrangement including a good heat-conducting material and being in good heat-conducting relationship with the at least one light emitting diode to serve as a cooling means.

Chen teaches a light emitting diode display wherein a reflector surrounding an LED provides a good heat-conducting relationship [see Abstract].

As mentioned above, it would have been obvious to modify the similar patent of Schwanz with the thermally efficient reflector of Chen to produce the pending application. It is also obvious and commonly held in the art that a reflector would be made of a good heat-conductive material so as to ensure proper heat dissipation means for the LED, thus ensuring proper operation and illumination.

5. Claim 4 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 4, 13, and 16 of U.S. Patent No. 6637917 to Schwanz et al. in view of Chen (U.S. Patent 5119174) as applied to Claim 1 above, and further in view of Nelson (U.S. Patent 4115177).

Schwanz in view of Chen disclose a side flashing lamp with a reflector as cited above

Neither Schwanz nor Chen specifically teach the reflector including a chromium-plated plastic body.

Nelson teaches a reflector including a plastic body coated with a chromium metal [see Abstract].

It would have been obvious to modify the reflector of Schwanz with the reflector of Chen to further incorporate the chromium-plated plastic body of Nelson to ensure a

durable and insulating mirror, thus protecting a user/driver when touching the rearview mirror.

6. Claim 7 is rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1, 4, 13, and 16 of U.S. Patent No. 6637917 to Schwanz et al. in view of Chen (U.S. Patent 5119174) as applied to Claim 1 above, and further in view of Kuenstler (U.S. Publication 2002/0118548).

Schwanz in view of Chen disclose a side flashing lamp as cited above.

Neither Schwanz nor Chen specifically teach the lamp being used as a high-set brake lamp.

Kuenstler teaches a high-set brake lamp for motor vehicles [see Abstract].

It would have been obvious that one could modify the lamp of Schwanz with the reflector of Chen to further incorporate a plurality of light emitting diodes arranged in a mutually juxtaposed relationship in a row that is substantially horizontal in the position of installation, such as taught by Kuenstler, to form a high-set brake lamp as claimed by the current application. Such a configuration is a matter of design preference and depends on the lamp's function. Lastly, it should be further noted that Kuenstler has a common assignee with the current application, which would benefit manufacturing processing by using a similar construction.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-2, 5, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwanz et al. (U.S. Patent 6299334) in view of Waldmann (U.S. Patent 6139171), and further in view of Chen (U.S. Patent 5119174).

8. With regards to Claim 1, Schwanz discloses a vehicle lamp having:

- a housing [Figures 1-3: (1) having a light exit opening [Figures 1-3: (5)];
- an elongate light cover closing the exit opening [Figures 1-3: (9)];
- at least one light emitting diode [Figures 1-3: (15)] in the housing disposed laterally of the light cover, the light emitting diode having a main emission direction substantially parallel to the longitudinal direction of the light cover;
- a light guide device [Figures 1-3: (9)] positioned for light emitted by the at least one light emitting diode in the main emission direction to be coupled into the light guide device and at least partially coupled out transversely with respect to the main emission direction [Figure 1: (L)]; and
- a reflector arrangement [Figure 2: (24) obviously acts as a reflector] which extends at least on the side of the light guide device in opposite relationship to the cover for reflecting light in multiple directions.

Schwanz does not specifically teach the light emitted by the diode moving towards the light cover, due to the fact that the cover/window acts also as the light guide. Schwanz also does not specifically teach the reflector arrangement being a good heat-conducting material and in thermal communication with the light emitting diode so as to provide a cooling means.

Waldmann discloses an exterior rearview mirror for vehicles having a reflector arrangement that transmits light into a guide [Figure 8: (3)] and on towards a lens/cover [Figure 8: (32)].

Chen teaches a light emitting diode display wherein a reflector surrounding an LED provides a good heat-conducting relationship [see Abstract].

It would have been obvious to modify the vehicle lamp of Schwanz to incorporate the lens/cover of Waldmann to protect the light guide as well as to provide an additional optical effect with illumination.

It would have been further advantageous and obvious to modify the vehicle lamp of Schwanz with the lens/cover of Waldmann to further incorporate the reflector of Chen with good heat-conducting means in order to ensure proper cooling means for the LED. Such a configuration is commonly held in the art whereby heat dissipation allows the LED to operate in preferred temperatures and with optimum illumination.

9. With regards to Claim 2, Schwanz teaches the LED mounted on a carrier circuit board [Figures 1-3: (16)].

10. With regards to Claim 5, Schwanz teaches the reflector arrangement being formed by at least one housing wall having an inside surface with a reflective layer thereon [Figures 1-3: (9)].

11. With regards to Claim 6, Schwanz specifically teaches, "The invention concerns a vehicle lamp of the kind set forth in the preamble of the claims. A specific configuration of such a vehicle lamp is known for example from EP 0 858 932 A2. That

involves a flashing lamp which is incorporated into the housing of an external rear view mirror [Column 1, Lines 4-10; underline added for emphasis]."

12. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwanz et al. (U.S. Patent 6299334) in view of Waldmann (U.S. Patent 6139171) and Chen (U.S. Patent 5119174) as applied to Claim 1 above, and further in view of Nelson (U.S. Patent 4115177).

Schwanz in view of Waldmann and Chen disclose a vehicle lamp with a reflector as cited above.

Schwanz, Waldmann, nor Chen specifically teach the reflector including a plate with a high mirror finish vapor deposited thereon or a chromium-plated plastic body.

Nelson teaches a reflector including a plastic body coated with a chromium metal [see Abstract]. Nelson specifically teaches, "The mirror surface 59 is formed by vacuum depositing liquid metallic aluminum onto the exposed parabolic concave surface 51 of the reflector support structure 52 to form a reflective layer 67, depicted in Fig. 4 [Column 7, Lines 6-9]."

It would have been obvious to modify the reflector of Schwanz with the lens/cover of Waldmann and the reflector of Chen to further incorporate the (chromium-plated plastic body/high mirror finish vapor deposited) reflector of Nelson to ensure a durable and insulating mirror, thus protecting a user/driver when touching the rearview mirror.

13. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Schwanz et al. (U.S. Patent 6299334) in view of Waldmann (U.S. Patent 6139171) and Chen

(U.S. Patent 5119174) as applied to Claim 1 above, and further in view of Kuenstler (U.S. Publication 2002/0118548).

Schwanz in view of Waldmann and Chen disclose a vehicle lamp as cited above.

Schwanz, Waldmann, nor Chen specifically teach the lamp being used as a high-set brake lamp.

Kuenstler teaches a high-set brake lamp for motor vehicles [see Abstract].

It would have been obvious that one could modify the lamp of Schwanz with the lens/cover of Waldmann and the reflector of Chen to further incorporate a plurality of light emitting diodes arranged in a mutually juxtaposed relationship in a row that is substantially horizontal in the position of installation, such as taught by Kuenstler, to form a high-set brake lamp as claimed by the current application. Such a configuration is a matter of design preference and depends on the lamp's function.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The following references have been cited to further show the state of the art pertinent to the current application:

US Patent 5938322 to Alozno et al; US Patent 6271750 to Brautingham et al;  
US Patent 6318886 to Stopa et al; US Patent 6325517 to Kuo;  
US Patent 6441943 to Roberts et al; US Patent 6474852 to Ohkohdo et al;  
US Patent 6561685 to Weber et al; US Patent 6641284 to Stopa et al;

US Patent 6695465 to Apfelbeck; US Patent 6769798 to Mishimagi;

US Patent 5774283 to Nagel; US Publication 2004/0037087 to Desai.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH



JOHN ANTHONY WARD  
PRIMARY EXAMINER